

G-010/MR-88-990ACCEPTING REFUND PLAN AND REQUIRING ADDITIONAL REFUNDS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of the Proposal by Midwest Gas Company to Refund to Eligible Customers an Over-Collection Resulting from Errors in the Calculation of its Purchased Gas Adjustment

ISSUE DATE: April 20, 1989

DOCKET NO. G-010/MR-88-990

ORDER ACCEPTING REFUND PLAN
AND REQUIRING ADDITIONAL
REFUNDS

PROCEDURAL HISTORY

On September 16, 1988 Midwest Gas Company, then North Central Public Service Company, filed its 1987-88 annual automatic adjustment report under Minn. Rules, part 7825.2810 et seq. Review of that filing disclosed that the Company had over-collected storage gas transportation costs from firm and small volume interruptible customers whose supplies were transported by Northern Natural Gas Company. The over-collection had begun August 1, 1986 and continued through the end of the 1987-88 reporting period.

On December 23, 1988 the Company filed a proposal to refund \$260,748, the portion of the over-collection attributable to the 1987-88 annual reporting period. The Company argued that it had no obligation to refund the \$28,000 portion attributable to the previous annual reporting period, for three reasons: (1) The Company had under-collected its gas costs during that annual reporting period; (2) Refunds of billing errors more than one year old were excused under Minn. Rules, part 7820.4000; (3) The \$28,000 over-collection did not exceed 5% of the correct charge, as required for refund liability under Minn. Rules, part 7825.2900.

The Company also stated in its filing that it had over-collected an undetermined amount of money from its customers since August 1, 1986 due to inaccurate billings from Northern Natural Gas Company (Northern). The Company explained that it paid Northern different rates for "Best Efforts" gas than for firm entitlement gas, and that Northern had mischaracterized certain supplies, resulting in substantial overpayments by Midwest Gas. The Company assured the Commission it would file a refund plan promptly upon resolution of this dispute.

The Department of Public Service (the Department) examined the Company's filing and recommended acceptance of the plan for refunding the \$260,748. The Department also urged the Commission to order a refund of the \$28,000 over-collected during the 1986-87 reporting period,

either on grounds that the anticipated refund from resolution of the "Best Efforts" dispute would bring the total amount within the 5% threshold or under the Commission's general authority to prohibit unjust and unreasonable rates.

The matter came before the Commission on April 4, 1989.

FINDINGS AND CONCLUSIONS

The Commission finds that the Company's proposal for refunding the \$260,748 portion of the over-collection attributable to the last annual reporting period is consistent with Commission policy and practice and should be approved. The Commission will approve the plan and require a subsequent filing detailing the actual distribution of the refund.

The Commission will also require refund of the \$28,000 portion of the over-collection attributable to the 1986-87 annual reporting period.

Minn. Rules, part 7825.2900, subp. 3 governs the refund of over-collections resulting from errors in automatic adjustment of customer charges. That section provides as follows:

Errors made in adjustment must be refunded by check or credits to bills to the consumer in an amount not to exceed the amount of the error plus interest computed at the prime rate upon the order of the commission provided that: such order is served within 90 days after the receipt of the filing defined in subpart 1 or at the end of the next major rate proceeding, whichever is later; and the amount of the error is greater than five percent of the corrected adjustment charge.

Minn. Rules, part 7825.2900, subp. 3.

The Customer Service Rules, which govern the relationship between utilities and their customers, contain the following refund provisions:

When a customer has been overcharged or undercharged as a result of incorrect reading of the meter, incorrect application of rate schedule, incorrect connection of the meter, application of an incorrect multiplier or constant or other similar reasons, the amount of the overcharge shall be refunded to the customer or the amount of the undercharge may be billed to the customer. The refund or charge in no event shall exceed one year, unless the date the error occurred can be fixed with reasonable certainty, in which case the refund or charge shall be computed from that date, but in no event for a period longer than one year. . . .

Minn. Rules, part 7820.4000.

A comparison of these two sections makes it clear that they apply to different kinds of errors. Part 7820.4000 applies to individual billing errors resulting from meter malfunctions, inaccurate meter

readings, and similar errors affecting individual customers. Part 7825.2900 applies to class-wide errors in the calculation or implementation of automatic adjustments. Clearly, there are significant differences between these types of errors which justify treating them differently. Equally clearly, the rules do treat them differently, imposing a one-year limitation on liability for individual billing errors and allowing liability for automatic adjustment errors to continue until the company's next general rate case. The Commission does not agree with the Company that the refund provisions of the Customer Service Rules prohibit ordering a refund of the \$28,000 at issue.

Neither does the Commission believe that the Company's refund liability is affected by its overall undercollection of gas costs in the 1986-87 annual reporting period. Under- and over- collections are facts of life for all local distribution companies. The Company had the option of seeking a true-up of gas costs at the end of the annual reporting period and chose not to do so. Presumably, the Company acted in its own best interests. Furthermore, Department records indicate that, since the Commission first began requiring annual reports on automatic adjustments in 1984, the Company has realized a net over-recovery of gas costs of \$1,519,643. The Commission sees no inequity in requiring the Company to refund the \$28,000 over-recovery.

The Company's contention that the \$28,000 over-collection is not subject to refund because it does not meet the rule's 5% threshold is a weightier matter. The rule provides that refunds may be ordered only if "the amount of the error is greater than five percent of the corrected adjustment charge. . . ." In this case, the \$28,000 error equals 4.37% of the corrected adjustment charge.

The Commission has observed the 5% threshold in the past and continues to believe that refunds under 5% should generally not be ordered. The Commission will do so in this case, however, because it is clear that the total amount erroneously collected through the Company's 1986-87 automatic adjustments will exceed the 5% threshold, once the amount the Company will receive from Northern for "Best Efforts" overcharges is included. Under these circumstances, the only issue is whether refund of the \$28,000 should await settlement of the Company's dispute with Northern. The Commission sees no justification for further delay in refunding these over-collections to ratepayers.

Finally, the Commission will also require the Company to file a refund plan for the over-collection involved in its "Best Efforts" dispute with Northern within 30 days of its resolution.

ORDER

1. The refund plan filed by Midwest Gas Company on December 23, 1988 is approved.
2. Within 30 days of the completion of the refund process, the Company shall submit to the Commission a report showing the actual amounts refunded by customer class and the interest rate(s) applied.
3. Within 30 days of the date of this Order, the Company shall file a plan for refunding the \$28,000

over-collection attributable to the 1986-87 annual reporting period.

4. Within 30 days of the resolution of its "Best Efforts" dispute with Northern Natural Gas Company, the Company shall file a plan for refunding amounts recovered from Northern which are subject to refund.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

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